

EXHIBIT 2

FILED UNDER SEAL

In the Matter Of:

In Re: Pork Antitrust Litigation

STEVE SIZEMORE

May 19, 2022



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Civil Action No. 0:18-cv-01776-JRT-HB

IN RE:

PORK ANTITRUST LITIGATION,

_____ /

DEPOSITION OF
STEVE SIZEMORE

Thursday, May 19, 2022
9:03 a.m. - 1:33 p.m.

Remote Location
Via Zoom Videoconference
All Parties Remote

Stenographically Reported By:
Erica Field, FPR

1 can go and just look at that.

2 Q. So it's like a menu you're looking
3 at, it tells you how much the price is for
4 whatever product you might be interested in
5 purchasing?

6 A. Yes, ma'am.

7 Q. And is that price negotiable?

8 A. No.

9 Q. So whatever the app says is the
10 price is what you pay?

11 A. On -- usually on pork it is, pork
12 and beef.

13 Q. So what about for other products,
14 how does it differ?

15 A. Some you might can get a better
16 price on.

17 Q. How would you go about getting a
18 better price?

19 A. I'd just call and ask.

20 Q. So if you think that the price
21 you're seeing on the app looks too high, you
22 call your sales rep and ask if they can give
23 you a better price?

24 A. Yes, ma'am.

25 Q. And how often does that work?

1 A. Maybe --

2 MS. RILEY: Object to the form.

3 You can answer.

4 A. Not very often.

5 BY MS. STRANG:

6 Q. And have you ever done that with
7 pork purchases?

8 A. I've tried and called, but I
9 just -- it is what it is on that.

10 Q. So your sales rep tells you the
11 price is the price?

12 A. Yes.

13 Q. Have you ever successfully
14 negotiated a discount for a pork product?

15 A. No.

16 Q. During the period from 2009 to
17 2018, you never did?

18 A. No, ma'am.

19 Q. And going back to the discussion
20 we were having before, do you believe that a
21 larger buyer of pork would have more success
22 than Longhorn's in negotiating the price of
23 pork?

24 MR. FINLEY: Objection. Calls
25 for speculation.

1 A. I don't know.

2 BY MS. STRANG:

3 Q. Are you the only one who purchases
4 pork for Longhorn's?

5 A. Yes.

6 Q. Has that been true throughout the
7 entire period we're discussing?

8 A. Yes.

9 Q. Do you get discounts based on
10 volume?

11 A. No.

12 Q. So regardless of whether you buy a
13 huge shipment of pork or a tiny shipment,
14 you're paying the same price per pound?

15 A. Yes.

16 Q. Would you be happy if Longhorn's
17 recovered some money through this lawsuit but
18 the other class members recovered nothing?

19 A. No. I think everybody should
20 recover something.

21 Q. Would it be fair if Longhorn's
22 lawyers received more money than Longhorn's?

23 MS. RILEY: Objection.

24 MS. STRANG: Are you instructing
25 the witness not to answer?

1 that. That's fine.

2 MS. RILEY: Okay.

3 A. My main entrees? It would be any
4 of the pork: Ribs, loins, Boston butts. And
5 then I also do, like I said, beef, chicken.

6 BY MS. STRANG:

7 Q. Would you say it's more pork than
8 beef and chicken?

9 A. On the -- yes. On the catering
10 menu, yes, ma'am.

11 Q. Do you use the same suppliers to
12 obtain pork for the catering business as you
13 do for the restaurant?

14 A. Yes.

15 Q. Do you have all of Longhorn's
16 previous menus from its restaurant saved
17 somewhere?

18 A. Not all of them.

19 Q. You have some?

20 A. I do.

21 Q. Were those produced in this
22 lawsuit?

23 A. No, I don't think so.

24 Q. Did Longhorn's have any point of
25 sale or POS software between 2009 to 2018?

1 A. No.

2 Q. Did anyone other than you manage
3 inventory at Longhorn's?

4 A. No.

5 MS. STRANG: All right. We've
6 been going about an hour. Do you guys
7 want to take a five-minute break?

8 THE WITNESS: Yes.

9 MS. STRANG: Great.

10 THE VIDEOGRAPHER: The time is
11 10:01 a.m. We are now going off the
12 record.

13 (A brief recess was held from 10:01
14 a.m. to 10:11 a.m.)

15 THE VIDEOGRAPHER: The time is
16 10:11 a.m. We are now back on the
17 record.

18 BY MS. STRANG:

19 Q. Okay. We're going to switch gears
20 to your purchases of pork at Longhorn's.

21 So could you first just describe
22 the process for procuring the food that you
23 either cook at Longhorn's in the restaurant
24 or for your catering business.

25 How did you select you suppliers?

1 A. We really only have about three
2 here in Mississippi that you really go to.

3 Q. Okay. Who are those?

4 A. Sysco, US Foods and Merchants are
5 the main ones in Mississippi. The Wood
6 Fruitticher comes from Alabama.

7 Q. Okay. So among those choices, how
8 did you make your selection for who to -- who
9 to use?

10 A. Usually, it's a trial and error.

11 Q. All right. So did you try first?

12 A. I -- probably US Foods was -- I
13 used them for awhile. Then I went to Wood
14 Fruitticher. Then I went back to US Foods.
15 Merchants was in there sparingly every now
16 and then.

17 Q. Did you ever use multiple
18 distributors at the same time, or you always
19 went from one to another?

20 A. I've used multiple before.

21 Q. And so you would buy some products
22 from one and some from the other?

23 A. Yes.

24 Q. And how did you decide which
25 products to buy from one distributor and

1 which to buy from the other?

2 A. Price.

3 Q. Any other factors?

4 A. Depending on what product I
5 wanted, if I wanted a certain product.

6 Q. So it was sometimes the case that
7 a particular product that you wanted, it
8 wasn't available from one of the distributors
9 and it was from the other?

10 A. Yes.

11 Q. Did that ever happen with pork
12 products?

13 A. No.

14 Q. So the pork products you
15 purchased, which I think you testified were
16 mainly ribs, loins and butts, were widely
17 available from each of these distributors?

18 A. Yes, ma'am.

19 Q. So you could have used any of
20 them?

21 A. Yes.

22 Q. Were there any differences in
23 quality such that you would have preferred to
24 buy pork from one distributor over the other
25 because the pork was better?

1 A. No. I never did any promotional
2 stuff with them.

3 Q. What about delivery speed?

4 A. About delivery what?

5 Q. Delivery speed. Maybe some were
6 faster than others.

7 A. You're going to get the delivery
8 on a certain day and that was it.

9 Q. So they all were fine?

10 A. Yes.

11 Q. What about availability of
12 products, were some distributors better than
13 others about that?

14 A. Yes.

15 Q. Which were better?

16 A. US and Wood Fruitticher.

17 Q. Better than Merchants?

18 A. Yes.

19 Q. So Merchants was -- you mean they
20 had a smaller selection or they were more
21 frequently sold out of a particular item?

22 A. Pretty much is they could not get
23 the order right. They would send me
24 something wrong about every time, about every
25 -- about once a week I'd get something wrong

1 I ordered from them.

2 Q. Like a mistake or like they were
3 substituting?

4 A. A mispick is what you would call
5 it, a mistake.

6 Q. What would they do to correct
7 that?

8 A. They would just -- they would
9 bring it back and I could get it the next
10 week, or sometimes the salesman might bring
11 it up if he's in that area.

12 Q. Did that happen with pork
13 products?

14 A. No.

15 Q. How about customer service, is
16 that a factor that just helped you determine
17 who to choose?

18 A. It would have, but, I mean, all
19 the customer service has been good from every
20 company.

21 Q. I think you testified before that
22 you've never negotiated any discounts or
23 rebates with any of the distributors for pork
24 products?

25 A. No.

1 Q. And you don't get any volume
2 discounts when you purchase more?

3 A. No. No.

4 Q. How much pork do you believe
5 Longhorn's purchased during the 2009 to 2008
6 period in pounds?

7 A. I do not know. That's been too
8 long ago.

9 Q. How about in dollars, do you have
10 any sense 2009 to 2018?

11 A. No, ma'am.

12 Q. In a typical year, do you have any
13 sense of how much pork Longhorn's buys in
14 pounds or in dollars?

15 A. No. I don't -- I really don't
16 keep up with that.

17 Q. Do you know how much Longhorn's
18 spent in food ingredients overall not
19 specific to pork?

20 A. Not off the top of my head, no,
21 ma'am.

22 Q. But you would be required to
23 probably report that in your tax --

24 A. I would have to look back on my
25 taxes, yes.

1 Q. How do you track those expenses?

2 A. Just week to week. I just try to
3 keep on eye on them.

4 Q. Do you use a set designated
5 account for all those purchases?

6 A. Just my Long- --

7 Q. A bank account --

8 A. Just my Longhorn bank account,
9 yes.

10 Q. And the Longhorn bank account is
11 only used for purchases related to Longhorn's
12 business?

13 A. Yes, for everything in the
14 business.

15 Q. And you don't -- none of the
16 purchases you make for Longhorn's are paid
17 for through any other account?

18 A. No.

19 Q. Do you ever use that Longhorn's
20 business account for personal purchases?

21 A. From time to time I may get
22 something we want at the house.

23 Q. So if you're at the grocery store
24 getting product for Longhorn and there's
25 something you need, you might use the same

1 business for Longhorn's?

2 A. Yes.

3 Q. And the debits are costs of doing
4 business?

5 A. Yes.

6 Q. All right. If you go to the
7 second page, and the category called ATM
8 Transactions.

9 A. Okay.

10 MS. STRANG: Can the technician
11 change to the second page?

12 (Reporter clarification.)

13 Q. All right. Do you see under
14 Activity Description, these are some
15 withdrawals?

16 A. Yes.

17 Q. Mainly from a Walmart and Sam's
18 Club?

19 A. Yes.

20 Q. What are these?

21 A. That would be some purchases for,
22 like, sliced cheese, lemons, mayo, mustard.
23 Stuff that I just picked up to use in the
24 restaurant. Pretty much every week we do
25 that, buy drinks. We don't have a drink

1 machine there. We use two-liter bottles.

2 Instead of having a beer company
3 come down and deliver it with their truck, we
4 just buy beer from Walmart or Sam's and use
5 it that way. And some -- most of it from
6 Sam's will be, like, chemical -- cleaning
7 chemicals and things.

8 Q. Did you ever buy any pork products
9 for the restaurant from Walmart or Sam's or
10 other retailers?

11 A. I may have bought some pork from
12 Sam's before, but it would be very little.

13 Q. So the majority of your pork
14 purchases would be reflected in the invoices
15 received from distributors?

16 A. Yes.

17 Q. When you say "very little," what
18 do you mean by that?

19 A. Maybe one or two Boston butts at a
20 time for something I was doing around the
21 house or somebody called me up and my order
22 had already come in. Somebody was down at
23 Jackson, I'd have them pick it up at Sam's
24 and bring it to me and I would cook them.

25 Q. Okay. Let's go to the next page.

1 What are these?

2 A. Checks.

3 Q. These are copies of checks that
4 you wrote from the Longhorn's business
5 account?

6 A. Yes.

7 Q. If you look on the right, the
8 second one down, it looks like a check to US
9 Foods; is that right?

10 A. Yes.

11 Q. And that would be for purchases of
12 products you bought --

13 A. Yes.

14 Q. -- from US Foods?

15 A. Yes.

16 Q. And the one below that is to
17 Merchants, same thing?

18 A. Yes.

19 Q. And generally speaking, would your
20 expectation be that the amounts on these
21 checks would correspond to the amounts on
22 invoices that you also received from US Foods
23 or Merchants?

24 A. Yes. I see the check numbers on
25 there that I -- the invoice would be the --